

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

Case No. 1:11-CV-580

RONALD ABERNATHY, ARTHUR
WEISS, and SOVEREIGN
INTERNATIONAL GROUP, LLC,

HON. GORDON J. QUIST

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On October 2, 2012, this Court entered an Order adopting Magistrate Judge Ellen Carmody's July 3, 2012, Report and Recommendation that the Court enter a default judgment against all Defendants. (Docket no. 65.) In addition, the Court referred the matter back to Magistrate Judge Carmody for an evidentiary hearing and submission of a report and recommendation on damages and injunctive relief. Pursuant to the referral, Magistrate Judge Carmody held an evidentiary hearing on November 5, 2012, at which Plaintiff presented evidence regarding injunctive relief and damages. Defendants did not appear at the hearing. On November 30, 2012, Magistrate Judge Carmody issued a Report and Recommendation (R&R) recommending that the Court: (1) issue a permanent injunction against Defendants in the form set forth in the proposed final judgment attached to the R&R; (2) hold Defendants jointly and severally liable for disgorgement in the amount of \$539,563, plus prejudgment interest in the amount of \$66,133; and (iii) impose a civil penalty in the amount of \$250,000 against each of the Defendants.

Defendants Weiss and Abernathy have each filed virtually identical Objections. When a party objects to a report and recommendation, "[t]he district judge must determine de novo any part

of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3). Having conducted a *de novo* review of the R & R, Defendants' Objections, and the pertinent portions of the record, the Court concludes that the R & R should be adopted and the proposed final judgment entered.

Defendants state in their Objections that they object to various statements in the R&R, but they offer no valid basis for this Court to reject the R&R. Instead, Defendants continue to assert their claims of poverty, which the Court addressed and rejected in its October 2, 2012, Order. (Docket no. 65.) As Magistrate Judge Carmody noted in her R&R,

The Court notes that during their fraud, when it suited their purposes to be wealthy, Defendants Weiss and Abernathy claimed to have access to millions of dollars and certain "hard assets" that could be converted to cash to pay back investors. (First Am. Compl. (Dkt. 35.) at ¶¶ 35–37, 49, 54–55, 67; Hr'g Ex. 8.) During this litigation, when it is in their interest to be impecunious, Defendants claim to have no assets at all.

(R&R at 11.) More importantly, Defendants do not take issue with Magistrate Judge Carmody's finding that they received more than a half million dollars from investors in their fraudulent scheme, nor do they offer any persuasive argument to reject her well-reasoned recommendation for an award of injunctive relief and imposition of a civil fine.

Therefore,

IT IS HEREBY ORDERED that Magistrate Judge Carmody's Report and Recommendation issued November 30, 2012 (dkt. # 69) is **ADOPTED**, and Defendants' Objections (dkt. ## 70 and 71) are **OVERRULED**.

A judgment in the form attached to the R&R will be entered.

This case is **concluded**.

Dated: March 8, 2013

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE